



Nov 19, 2024

**City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050**

Re: Proposed Housing Development Project at 4590 Patrick Henry Drive

**By email: MayorAndCouncil@santaclaraca.gov; lgillmor@santaclaraca.gov;
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**Cc: clerk@santaclaraca.gov; CityAttorney@santaclaraca.gov;
manager@santaclaraca.gov; planning@santaclaraca.gov**

Dear Santa Clara City Council,

The California Housing Defense Fund (“CalHDF”) submits this letter to remind the Council of its obligation to abide by all relevant state laws when evaluating the proposed 284-unit housing development project at 4590 Patrick Henry Drive, including 42 affordable units, calendared as agenda item 7 for the November 19, 2024 Council meeting. These laws include the Housing Accountability Act (“HAA”) and the Density Bonus Law (“DBL”).

The HAA provides the project legal protections. It requires approval of zoning and general plan compliant housing development projects unless findings can be made regarding specific, objective, written health and safety hazards. (Gov. Code, § 65589.5, subd. (j).) The HAA also bars cities from imposing conditions on the approval of such projects that would render the project infeasible unless, again, such written findings are made. (*Ibid.*) As a development with at least two-thirds of its area devoted to residential uses, the project falls within the HAA’s ambit, and it complies with local zoning code and the City’s general plan. Increased density, concessions, and waivers that a project is entitled to under the DBL (Gov. Code, § 65915) do not render the project noncompliant with the zoning code or general plan, for purposes of the HAA. (Gov. Code, § 65589.5, subd. (j)(3).) The City must therefore approve the project unless it makes written findings regarding health and safety as mentioned above – which it cannot do since the preponderance of the evidence in the record does not support such findings. (*Id.* at subd. (j).)

The DBL offers the proposed development certain protections. (See Gov. Code, § 65915.) The City must respect these protections. In addition to granting the increase in residential units allowed by the DBL, the City must not deny the project the proposed waivers and concessions with respect to ground floor bedroom location, uninterrupted building length, and building articulation, unless it makes written findings as required by Government Code section 65915, subdivision (e)(1) that the waivers would have a specific, adverse impact upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Of note, the DBL specifically allows for a reduction in required accessory parking in addition to the allowable waivers and concessions. (*Id.* at subd. (p).) Furthermore, the California Court of Appeal has ruled that when an applicant has requested one or more waivers and/or concessions pursuant to the DBL, the City “may not apply any development standard that would physically preclude construction of that project as designed, even if the building includes ‘amenities’ beyond the bare minimum of building components.” (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 775.)

Of note, regarding the proposed waivers/concessions the project is requesting pursuant to the DBL, building articulations and step backs, which are required by Patrick Henry Drive Specific Plan Standard 5.6.1.2 and Standard 5.6.1.9, increase construction cost considerably, and their value to the public is unclear. Additionally, any building with double loaded corridors (that is, essentially every apartment building built under the International Building Code, which is the basis for California state building code) will need to place bedrooms nearest the street, contrary to the Patrick Henry Drive Specific Plan Guideline 5.5.2.5, which calls for living rooms and kitchens nearest the street and bedrooms to the interior, as this is the only way for bedrooms to have windows. The City could address this issue by adopting [single stair reform](#), which would bring it in line with European countries that have much [better fire safety records](#).

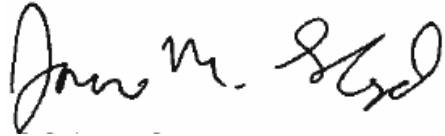
As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit: it will provide badly needed affordable housing, it will grow the city’s tax base, it will bring new customers to local businesses, and it will reduce displacement of existing residents by reducing competition for existing housing. CalHDF therefore strongly urges the Council to approve the project, consistent with its obligations under state law.

CalHDF is a 501(c)(3) non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dylan Casey', with a long horizontal stroke extending to the right.

Dylan Casey
CalHDF Executive Director

A handwritten signature in black ink, appearing to read 'James M. Lloyd', with a long horizontal stroke extending to the right.

James M. Lloyd
CalHDF Director of Planning and Investigations